

# **BOARD OF CODE STANDARDS AND APPEALS MINUTES**

**April 5, 2010**

**Members:** Francisco Banuelos, Randy Coonrod, Daryl Crotts, Randy Harder, Richard Hartwell, Bernie Hentzen, Ed Murabito, Warren Willenberg, John Youle

**Present:** Banuelos, Coonrod, Crotts, Harder, Hartwell, Hentzen, Murabito, Willenberg, Youle

**Staff Members Present:** Kurt Schroeder, Penny Bohannon, Elaine Hammons (Central Inspection); Jeff Van Zandt (Law Department)

The regular meeting of the Board of Code Standards and Appeals was called to order by Chairman Hentzen on Monday, April 5, 2010, at 1:32 p.m. in the 1<sup>st</sup> floor Board Room, City Hall, 455 N. Main, Wichita, Kansas.

## **Approval of the March 1, 2010, minutes.**

Board Member Hartwell made a motion to approve the March 1, 2010, minutes. Board Member Harder seconded the motion. The motion was approved.

## **Approval of the April 2010 license examination applications as follows:**

There were no contractor license examination applications for the month of April.

Chairman Hentzen asked that the Board and City Staff introduce themselves to the public in attendance.

## **Condemnation Hearings**

### **Review Cases:**

#### **1. 614 N. Cleveland**

The property owner, Stephanie Hyde, was present.

This structure is a one-story commercial building about 90 x 45 feet in size. Vacant and open, this structure has rotted and missing siding and the roof has collapsed.

This property was first brought before the Board on September 14, 2009. Since that time, Ms. Hyde has made numerous repairs to the structure. The roof has been installed, most of the windows have been replaced, and the doors have been replaced. Central Inspection staff recommendation is that the property be returned to regular code enforcement.

Board Member Murabito made a motion to return the property to regular code enforcement. Board Member Crotts seconded the motion. The motion was approved.

#### **2. 641 N. Volutsia**

Craig Gable, an interested party, was present on behalf of this property.

A two-story frame dwelling about 37 x 22 feet in size, this structure has been vacant for at least ten years. The structure has cracking concrete block basement walls; rotted wood lap siding; badly worn composition roof with holes and missing shingles; deteriorated front and rear porches; and the wood trim and framing members are rotted.

First brought before the Board at the March 1, 2010, hearing, the Board approved a motion to allow thirty days for the issue of ownership to be clarified and to allow Mr. Gable, as an interested party, to make contact with the owner and then report back to the Board. Mr. Gable provided a letter from the property owner stating that he and Mr. Gable were in negotiations regarding the sale of the property. The 2009 taxes are still delinquent, and the 2009 Special Assessment for lot clean up remains unpaid. The property is currently secure.

Mr. Gable explained that he was waiting on the owner to return the signed purchase contract to him. In the interim, Mr. Gable assured the Board that he was maintaining the property in a clean and secure condition. Mr. Gable said he anticipated the signed contract should arrive within the week.

Mr. Van Zandt inquired whether the property had been probated and the property transferred to another owner since the owner of record had been reported as deceased. Mr. Gable said that the owner, who now lived out of state, had been erroneously reported as deceased; and he had personally spoken to the owner. Board Member Coonrod asked if the exterior repairs could be completed within sixty days once the sale was finalized. Mr. Gable said he could have the exterior violations in compliance within that period.

Board Member Coonrod made a motion to allow sixty days for the property to be brought into minimum code compliance; In the event that the sale of the property was not accomplished, and the property was not brought into compliance, it would be referred to the City Council for condemnation, with ten days to begin wrecking the structure and ten days to complete the demolition. Board Member Harder seconded the motion. The motion carried.

### **3. 1737 N. Madison**

James E. Bennett and Henry Bennett, sons of the deceased owner, were present.

This one-story frame dwelling is about 28 x 45 feet in size. Vacant for at least two years, this structure has shifting and cracking concrete basement walls; rotted wood lap siding; badly worn composition roof with missing shingles; rotted wood trim and rafter tails; and the front, south and north side porches are deteriorated.

This property was first brought before the Board at the March 1, 2010, hearing; Della McFall and Dorothy Douglas, daughters of the deceased owner, were present at that meeting. The Board approved a motion to grant thirty days for Ms. McFall and Ms. Douglas to confer with their siblings about the property condition and decide on a course of action, sending a representative for the siblings to the April 5, 2010, meeting to report on the status of the property. The taxes are current; there are no Special Assessments against the property; there is a small pile of tree waste on site, but the premise is otherwise maintained. No repairs have been made; the structure is secure.

James Bennett said that he had been ill and unable to attend the March 1, 2010, hearing; he planned to begin working on the property immediately, weather permitting. Board Member Harder asked for an estimated time for completion. Henry Bennett asked what repairs were needed on the property. Ms. Legge gave a brief outline of the violations, advising the men to see OCI staff for a copy of the complete list of requirements. Henry Bennett replied that he expected the work to be completed within sixty days.

Board Member Harder made a motion that the Bennetts be allowed sixty days to bring the exterior of the property into code compliance, maintaining the premise in a clean and secure condition in the interim. Board Member Youle seconded the motion. The motion passed.

### **4. 838 S. Topeka**

The property owner, Robert Carstedt, attended the hearing on behalf of this property.

Approximately 39 x 44 feet in size, this is a two-story frame dwelling. Vacant for at least ten months, this structure has been badly damaged by fire. It has fire damaged, rotted and missing siding; fire damaged and badly worn

composition roof with holes and missing shingles; deteriorated front porch; and the wood trim and framing members are rotted.

First presented to the Board at the March 1, 2010, hearing, an extension of thirty days was granted to the owner to formulate a plan of action for repairing the property, obtain estimates for repair of the property, determine whether he would have the necessary funds available, and then return to advise the Board of the status. The 2007, 2008, and 2009 taxes are delinquent in the amount of \$2,190.79, which includes Special Assessments and interest. There is miscellaneous debris from the fire still on the premises. As of March 23, 2010, no repairs had been made. The main floor of the structure was secure.

Mr. Carstedt informed the Board that he had received an estimate for work on the property. The work is scheduled to begin the next week,. Additionally, some of the windows have been repaired; Mr. Carstedt intends to repair the siding and the fire damage, including the roof rafters. He speculated that he would have the money to pay the delinquent taxes by the middle of the next week; he already has the money to repair the roof, the siding, and the fire damage, and has some of the supplies stored in the house. Board Member Harder asked how long Mr. Carstedt expected to need to finalize the repairs. Mr. Carstedt said he would need sixty to ninety days, although he would work as quickly as possible. He explained that an incapacitating injury had prevented him from working on the repairs until recently.

Board Member Harder made a motion that an additional ninety days be granted in order to allow the owner to complete the repairs, maintaining the property in a clean and secure condition in the interim, and to pay the delinquent taxes. Board Member Coonrod seconded the motion. The motion carried.

#### **New Cases:**

##### **1. 1831 N. Madison**

There was no one present at the hearing to represent this property.

Vacant for at least three years, this one-story wood frame dwelling is about 33 x 25 feet in size. This structure has shifting and cracking concrete basement walls; collapsing brick siding; rotted fascia and wood trim; and the front porch is deteriorated.

The active file was initiated on this property on July 17, 2007. Several improvement notices and violation notices were issued on the property. In August of 2006 and June of 2007, nuisance cases were started against the property; the owner complied with the requirements to correct the nuisances. Another nuisance case was begun in October of 2009; the nuisance was abated through the contractor hired by the City of Wichita.

Board Member Murabito made a motion to refer the property to the City Council with a recommendation of condemnation, with ten days to begin demolition and ten days to complete razing the structure. Board Member Harder seconded the motion. The motion passed.

##### **2. 1523 N. Estelle**

No representative for this property was in attendance.

About 36 x 50 feet in size, this one-story frame dwelling has been vacant for at least five months. The structure has been damaged by fire. It has a cracking concrete block foundation; fire damaged and missing siding; fire damaged fascia and wood trim; and the composition roof is fire damaged.

Board Member Harder made a motion to send the property before the City Council, recommending condemnation, with ten days to start wrecking the structure, and ten days to complete the removal. Board Member Coonrod seconded the motion. The motion carried.

**3. 1557 N. Oliver**

There was no party in attendance to represent this property.

Vacant for at least five years, this is a one story frame dwelling about 29 x 41 feet in size. This building has a shifting and cracking concrete foundation, with missing concrete; missing brick siding; and the composition roof is sagging and badly worn, with holes and missing shingles.

Board Member Coonrod made a motion to refer the property to the City Council with a recommendation of condemnation, with ten days to initiate demolition, and ten days to finish wrecking the structure. Board Member Harder seconded the motion. The motion was approved.

**4. 1621 N. Kenmar**

There was no representative in attendance for this property.

A one-story frame dwelling about 28 x 41 feet in size, and vacant for at least two years, this structure has shifting and cracking concrete block basement walls; shifting and cracking brick siding, with missing bricks; missing wood siding; missing fascia, exposed framing members; and rotted wood trim.

Board Member Harder made a motion to send the property to the City Council, recommending condemnation, with ten days to being wrecking the building and ten days to finish the wrecking. Board Member Youle seconded the motion. The motion passed.

**5. 2712 N. Fairmount**

No representatives for this property were present at the hearing.

This one-story frame dwelling about 27 x 50 feet in size. Vacant and open, this structure has shifting and cracking concrete basement walls, with missing concrete; rotted and missing wood and brick siding; deteriorated front and rear porches; rotted wood trim and framing members; and the 23 x 21 foot accessory structure is deteriorated.

Board Member Coonrod made a motion to send the property to the City Council with a recommendation of condemnation, with ten days to start demolition, and ten days to complete demolition. Board Member Harder seconded the motion. The motion carried.

**6. 2778 / 2880 S. Davidson**

There was no one present acting as a representative for this property.

Approximately 24 x 64 feet in size, this one-story frame duplex is vacant and open. This structure has a concrete block foundation with missing blocks; badly worn composition roof; dilapidated front and two side porches; rotted soffits, fascia and window frames; and the 5 x 8 foot accessory structure is dilapidated.

Board Member Murabito made a motion to send the property before the City Council, recommending condemnation, with ten days to commence razing the structure, and ten days to complete removal. Board Member Hartwell seconded the motion. The motion passed.

**7. 3916 / 3920 E. Roseberry Ct.**

Dale Blubaugh, owner of the property, was present.

A one-story frame duplex about 24 x 84 feet in size, this structure is vacant and open. This building has a wood pier and concrete block foundation with missing wood and concrete; rotted and missing asbestos siding; badly worn

composition roof; three dilapidated porches; rotted fascia, soffits, and sill plates; and the two accessory structures 13 x 86 foot wood and 6 x 8 foot metal are dilapidated.

The active file was initiated in April of 1999. Since then, several improvement notices and violation notices were issued. Some repair to the foundation was done in April of 2008. On October 26, 2009, a nuisance case was started and a Pre-condemnation letter was also issued; and on March 25, 2010, a graffiti case was initiated. The 2009 taxes are delinquent in the amount of \$360.81. There are no Special Assessments against the property. At the last site visit, there was tree debris on the premises; no repairs had been made; the structure was secure.

Addressing the Board, Mr. Blubaugh said that the graffiti had been covered, and he planned to remove the two accessory structures. A low area on the site collected water and was too muddy to allow him to work on the repairs during the winter. The roof, Mr. Blubaugh told the Board, has no leaks; the steps need to be cemented, and the structure needs new storm windows. A personal health issue prevented Mr. Blubaugh from actively working on the property. He estimated that it would take ninety days to complete the repairs.

Board Member Harder made a motion to allow ninety days to allow completion of the repairs, meanwhile maintaining the site in a clean and secure condition, and pay the delinquent taxes. Board Member Banuelos seconded the motion. The motion carried.

Mr. Blubaugh reported that he had already paid the delinquent taxes, and had the receipt with him as proof.

#### **8. 3413 E. Roseberry Ct.**

There was no representative present for this property.

This one-story frame dwelling is about 77 x 34 feet in size. Vacant and open, this structure has rotted and missing vinyl, woodlap and metal siding; sagging and badly worn shake shingle roof with holes and missing shingles; two dilapidated porches; rotted trim boards and rafters; and the two 8 x 10 foot metal accessory structures are dilapidated.

The case on this property has been active since July 22, 2002, and numerous improvement notices and violation notices have been issued.

Board Member Harder made a motion to refer the property to the City Council with a recommendation of condemnation, with ten days to commence demolition of the building, and ten days to complete the removal. Board Member Coonrod seconded the motion. The motion passed without opposition.

#### **9. 1400 W. 50<sup>th</sup> S.**

There was no one present at the hearing on behalf of this property.

A-one story frame dwelling about 48 x 60 feet in size, this building is vacant and open. This structure has rotted vinyl, masonite and concrete block siding; composition roof with missing shingles; rotted wood trim and framing members; and the 12 x 12 foot wood accessory structure is dilapidated.

Board Member Harder made a motion to refer the property to the City Council with a recommendation of condemnation, with ten days to begin demolition, and ten days to complete wrecking the structure. Board Member Willenberg seconded the motion. The motion was approved.

#### **Unfit for Habitation Case:**

##### **1623 N. Arkansas**

Darren Watson, son of the deceased owner, and his attorney, Ron Sickmann, were present at the hearing.

Mr. Schroeder gave a brief introduction of the circumstances surrounding this case. At the February 10, 2010, meeting, Mr. Schroeder notified the Board that attempts to contact the tenant of the property by certified letter were returned to Central Inspection as unclaimed. A letter had not been sent to Ronald Sickmann, representative of the estate. Since that meeting, correspondence was sent to Mr. Sickmann advising him of the Board's action to declare the property unfit for habitation and to have the property vacated and begin demolition of the property within thirty days as authorized by Section 20.04.180(3)(b) of the Housing Code. Mr. Sickmann filed an appeal with the City Council; however, since Mr. Sickmann was not aware of the previous Board meeting, the case was referred back to the Board of Code Standards and Appeals to permit a representative of the property to speak to the Board on behalf of Mr. Watson.

Ms. Legge reminded the Board that this property had been brought before it approximately a year ago with conditions similar to those cited in the current list of violations, such as interior violations, no heat, and junk and debris in the yards. An appeal was made at that time, and enough work was completed on both the interior and exterior of the property to have it removed from the unfit for habitation status.

After investigating a complaint about the property, Wichita Police Department notified Central Inspection staff of the hazardous conditions inside the structure, as well as the trash and debris on the exterior of the premises. The WPD provided photographs of unsafe heaters (kerosene heaters in use and propane heaters in use), sewage back up in the basement, and a broken sewer line on the interior of the dwelling. On the exterior of the structure there were auto parts, inoperable vehicles, and bulky waste and debris. One of the police officers responding to the complaints about this property had recently caught an individual dumping sewage into a drainage ditch by the river.

Mr. Sickmann asserted that officers with the Wichita Police Department had strewn things inside the property and that the photographs were actually pictures of the mess the officers made of the contents after carrying out a search warrant. Mr. Sickmann told the Board that Mr. Watson had been cleaning the interior and had brought pictures that he had taken to verify it. Acknowledging that there was debris in the yard, Mr. Sickmann assured the Board that Mr. Watson intended to have it removed within the next thirty to sixty days. Mr. Watson added that the police officers had broken doors and had thrown clothing onto the driveway.

Chairman Hentzen inquired whether water service and gas service were on at the property. Mr. Watson replied that there was currently no gas service on; however, the water service was turned on. He said he was waiting for an electrical inspection to get the electrical released for service to be restored. Chairman Hentzen asked how long the electrical service had been off. Mr. Watson told him it had been off for about two years.

Ms. Legge asked if the sewer was hooked up. Mr. Watson said it had been backed up, but was now working. Ms. Legge asked how many people were presently living in the structure, and the ages of those occupants. Mr. Watson answered that now him and his wife were the only occupants; previously, two eighteen-year old sons and a twenty-two year old daughter had also lived there.

Mr. Van Zandt queried Mr. Sickmann about the formal probate of the estate, or if a will had been written by Mack Watson, the deceased owner of the property, or if a Transfer on Death Deed had been filed. Mr. Sickmann responded that no will had been written, and the transfer of deed had not been filed.

Mr. Watson provided the pictures to the Board Members, stating he had taken the photos before coming to the hearing that day.

Board Member Harder asked Mr. Van Zandt to clarify what the options of the Board were in taking action on the property. Mr. Van Zandt explained that the Board could reconsider its motion to declare the property unfit for habitation; or the Board could grant a specified amount of time to allow Central Inspection staff to verify the condition of the property, interior and exterior.

Board Member Youle made a motion to allow thirty days for Mr. Watson to provide access to Central Inspection staff to verify and properly document the interior and exterior conditions and report back to the Board with the findings. In the event that access to Central Inspection staff is denied, the unfit for habitation ruling will be upheld, and the order to vacate will be issued in accordance with Title 20, Section 20.04.180 of the Code of the City of Wichita. Board Member Crotts seconded the motion. The motion was approved unanimously.

Ms. Legge provided the Neighborhood Inspector Supervisor's name, the Neighborhood Inspector's name, and the phone number to Mr. Watson and Mr. Sickmann in order to arrange the date and time for the inspection.

With no other business to conduct, Board Member Harder made a motion to adjourn the meeting. Board Member Coonrod seconded the motion. The motion carried.

The meeting adjourned at 2:17 p.m.